Final Report—Complaint 980164

Proposed Logging on Durieu Ridge,
near Mission, BC – Terrain Stability Requirements
and Opportunity for Public Review and Comment

August 1999

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Table of contents

The Investigation 1
Background 1
Investigation Findings 2
A. Opportunity for Public Review and Comment 2
B. Terrain Stability Requirements 5
C. Was clearcutting allowed? 7
Conclusion 8
Recommendations 9

The Investigation

Durieu Ridge and Pattison Creek are located in the Hatzic Lake watershed, northeast of Mission, in the Chilliwack Forest District. The area has a history of landslides and flooding, caused both naturally, and by past logging and road building activities.

On October 26, 1998, the Board received a complaint about proposed clearcut harvesting on Durieu Ridge and in the Pattison Creek watershed. The complaint stated that the district manager had approved clearcut logging despite the fact that terrain stability reports indicated that the area is unstable. The complainant also questioned whether the proposed logging was advertised properly to the public since she did not know about it until after a timber sale license was approved in July 1998.

The Board investigation focused on whether the requirements of the Forest Practices Code were met, specifically:

- whether opportunities for the public to review a forest development plan were adequate;
- whether terrain stability requirements for the forest development plan or other operational plans were met; and
- whether clearcutting was permitted under the Forest Practices Code, based on any terrain stability assessments.

Background

The Hatzic Lake watershed consists of a flat valley bottom surrounded by steep forested terrain. The Durieu Ridge is an example of this mountainous terrain. The valley bottom beneath the ridge is developed with farms and rural residences. The complainant lives in the valley.

According to the Chilliwack Forest District, logging has taken place in the area since the early 1900s. Some of this logging took place on unstable terrain, with poor road building practices. Landslides occurred and sediment and coarse material have been introduced into lower streams and Hatzic Lake. The sediment has contributed to flooding of the valley floor.

In February 1998, the Chilliwack Forest District Small Business Forest Enterprise Program (SBFEP) advertised for bids on a timber sale license in the vicinity of Durieu Ridge. The sale consisted of seven cutblocks ranging from 0.3 to 10.4 hectares in size. Logging was to be done by helicopter. These cutblocks had all been approved previously in the forest development plan for the Chilliwack District SBFEP.

The sale was awarded to a licensee on March 18, 1998.

On October 19, 1998, a public meeting was held to discuss the proposed logging. Representatives of the Chilliwack Forest District, the licensee, and over 100 local residents attended. Local residents arranged the meeting when they learned that the licensee might begin harvesting that month. The residents were very concerned about past landslides, and the noise from helicopters. The licensee described the meeting as 'extremely hostile'.

This complaint was sent to the Board after that meeting. When the licensee was notified of the complaint, he sent a letter to the Board indicating that he was not prepared to deal with the public opposition to the sale. He also indicated that he asked the Chilliwack Forest District to take back the sale, refund his deposit, and provide him with another sale elsewhere.

To date, the sale has not been harvested or cancelled, and it expired on March 31, 1999.

Investigation Findings

A. Opportunity for Public Review and Comment

The complainant indicated that the first time she and other local residents learned of the proposed harvesting in the vicinity of Durieu Ridge was on Thanksgiving weekend, October 10-12, 1998. In 1997, the *Operational Planning Regulation* required that a district manager publish a notice in a newspaper and the British Columbia Gazette stating that a forest development plan was available for public review and comment, before he or she approved it. The notice had to be in a form acceptable to the district manager.

The SBFEP forest development plan, which included the proposed cutblocks near Durieu Ridge, was advertised in the Mission City Record newspaper on February 20, 1997, and again on March 13, 1997. The notices indicated that the plans were available for public review between February 15 and April 15, 1997, and that an open house would be held on March 20, 1997.

An identical notice appeared in the British Columbia Gazette on February 20, 1997.

FINDING 1:

The Chilliwack Forest District SBFEP forest development plan was advertised in accordance with Code requirements in place in 1997.

Section 4(1) of the *Operational Planning Regulation* deals with public review of forest development plans:

> 4(1) A person that publishes a notice under section 2 must…provide adequate opportunity for review and comment to persons interested in or affected by operations under the plan or amendment.

The complainant and other residents of the area would clearly be interested in, and potentially affected by, planned operations, since operations were to take place on the ridge surrounding their homes. However, the complainant stated that the public was not aware of planned development in the vicinity of Durieu Ridge. The adequacy of the public's opportunity to comment thus came into question.

The Forest Practices Code *Public Consultation Guidebook* provides recommendations regarding public consultation and advertising formats for review of forest development plans. Although the guidebook recommends procedures, practices and results that are consistent with the legislated requirements of the Code, they are not mandatory.

The *Public Consultation Guidebook* provides good suggestions for effective newspaper advertisements. It recommends that newspaper advertisements for forest development plans outline the geographic area, including distance and direction from the nearest community, of proposed operations. It also recommends that plans should be advertised in the main and/or legal section of the paper in large format (suggested minimum size is 4" by 6").

A copy of the forest development plan advertisement appears in Figure 1. It appeared on page 21 of the Mission City Record newspaper, which was the first page of the classified section. The advertisement included all forest development plans for the district, including the SBFEP forest development plan.

This ad indicated that the SBFEP forest development plan would be available for viewing with other forest development plans, but it did not specifically mention 'Durieu Ridge', or any other geographical area, except that the plans were in the vicinity of Mission. A person reading the ad would not know where the operations were taking place, or if they were near their property. The ad is much smaller than the suggested size, and the text is quite small.

The ad would have been more effective if it were larger and if it specified the location of planned development, consistent with the recommendations contained in the *Public Consultation Guidebook*. An effective method of informing the public would have been to publish a map indicating the location of the planned development.

The open house was held on March 20, 1997. According to the district manager, the public turnout was disappointing, which, in his opinion, is typical of open houses throughout the province. The complainant did not attend, but two of her neighbours did.

Province of British Columbia — Ministry of Forests

PUBLIC VIEWING

Proposed Forest Development Plans, 5 Year Silviculture Plans and Access Management Plans.

Notice is hereby given that the Ministry of Forests and forest licensees will be holding a public viewing of the proposed forest development plans, 5 year silviculture plans, and access management plans for the operating areas in the vicinity of Mission.

These draft plans show the location and orderly development of proposed harvesting; road development, maintenance, and deactivation; and silviculture activities for 5 years as well as accompanying assessments and prescriptions. The development plans cover proposed foreshore sites for log dumping, log helidropping, and log handling and storage on land or water in the vicinity of the proposed logging blocks. The plans also include information on the maintenance and protection of other resource values in the area.

The above plans will be available for viewing between 2:00 p.m. and 8:00 p.m. at the Mission Leisure Centre on March 20, 1997. The plans for the following licences will be on display: Small Business Forest Enterprise Program, Forest Licence A19208, Timber Sale Licence (Major) A20471, Tree Farm Licence No. 26, and the Ministry of Forests. Light refreshments will be served. A representative from the Ministry of Forests and the applicable forest licensee will be available to discuss the proposed plan and receive comments.

If any interested parties are unable to review the proposed plans during these times, arrangements can be made to view the plan at a time convenient for them. The plans will be available between February 15, 1997 to April 15, 1997 for Timber Sale Licence (Major) A20471, Tree Farm Licence No. 26, Small Business Forest Enterprise Program and the Ministry of Forests, and between March 7, 1997 to May 7, 1997 for Forest Licence A19208 and the Ministry of Forests.

Please contact Jack Sweeten, R.P.F., Operational Planning Forester at 794-2100 or in writing to Ministry of Forests, P.O. Box 159, 9880 South McGrath Road, Rosedale, B.C., V0X 1X0 for more information.

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Figure 1

FINDING 2:

The advertisement of the public viewing of the SBFEP forest development plan was not effective in alerting at least some of the interested public, and the complainant in particular, that development was planned in the vicinity of Durieu Ridge.

The *Public Consultation Guidebook* also recommends measures beyond newspaper advertising to ensure the public has an adequate opportunity to comment. District staff could have assembled a mailing list of interested members of the public, and sent out notices. Direct contact could also have been made with public advisory groups, associations, special interest groups, and/or individuals known to have an immediate interest in local land and resource management issues or who live close to proposed areas of operations.

Notices advising the public of opportunities for plan review could have been placed in public locations such as postal stations, public libraries and/or municipal/regional district offices in the vicinity of the proposed operations.

While these measures may be interpreted by some as additional red tape or process, these measures would have helped interested members of the public to have an adequate opportunity to comment as required by section 4(1) of the *Operational Planning Regulation.*

In light of the past history of landslides further up the valley, and the close proximity of residences to the proposed development, the district manager should have taken steps in addition to the newspaper ads to make the public aware of planned development and to solicit comment.

The district manager felt that the opportunity for the public to review and comment on the forest development plan was adequate. In the Board's view, part of any consideration of whether a review opportunity is 'adequate' would include whether the public knew about planned activities and the opportunity to comment. By relying solely on the two newspaper ads in particular to solicit public review

and comment, the district manager did not ensure that interested and affected individuals and groups were aware of the proposed development during the public review and comment period. If the public was not aware of the planned development, they could not be expected to provide their comments or concerns.

FINDING 3:

The district manager did not ensure that people interested and affected by the operations were made aware of proposed development. The opportunity for public review and comment on proposed operations provided by the district manager was inadequate. The district manager did not comply with section 4(1) of the *Operational Planning Regulation.*

Despite the complainant's statement to the contrary, many more members of the public became aware of proposed logging prior to October 1998, but well after the public review and comment period had ended.

In response to the poor public turnout at the open house, and the fact that the district did not receive any public comments on the proposed harvesting, the district arranged a helicopter tour of the area. The purpose of the tour was to generate more public awareness of planned operations and the planning efforts that went into the sale. The district invited a representative of the Fraser Valley Regional District to attend because the Regional District had not commented on planned operations during the public review period.

On August 7, 1997, a representative of the Fraser Valley Regional District Board, two local residents and a reporter with the Mission City Record took part in the tour. Afterwards, the reporter wrote an article about the proposed development and the concerns of residents. The article appeared on the third page of the Mission City Record on August 14, 1997.

The article did a better job of informing the public about the planned logging than the statutory notices in the newspaper. The Board commends the district manager for taking the extra step of arranging the helicopter tour. However, the tour should have occurred prior to, or during, the public review period to be effective in facilitating public comment.

B. Terrain Stability Requirements

When the forest development plan was approved in 1997, section 30 of the *Operational Planning Regulation* required that a terrain stability field assessment be carried out to the satisfaction of the district manager. The assessment was required for areas where harvesting was proposed on slope gradients greater than 60 percent.

The cutblocks in the vicinity of Durieu Ridge were on terrain with slope gradients greater than 60 percent; therefore, a terrain stability field assessment was required. A professional geoscientist conducted an assessment, and submitted his report to the district on May 16, 1997. The assessment was carried out at a very detailed level (intensity A,1:5000 scale).

The Board reviewed the terrain stability assessment report and found that it was prepared in the manner recommended by the Forest Practices Code *Mapping and Assessing Terrain Stability Guidebook*.

The geoscientist noted that past logging and road building had contributed to several large landslides and ongoing erosion in the headwall of Pattison Creek. As a result, he recommended that one cutblock be removed from consideration, and three other cutblock boundaries be adjusted. The geoscientist ensured that the proposed cutblocks were not located in this high hazard area.

The remaining cutblocks were located on benched areas and were rated as having a low slide initiation potential. However, some steeper slopes occur along cutblock boundaries, indicating a moderate slide initiation potential. According to the geoscientist, the district's proposed use of a helicopter to log the site should reduce the potential impact of logging on these slopes.

The district accepted the recommendations of the geoscientist - one cutblock was removed from consideration and the boundaries of three other cutblocks were adjusted prior to the approval of the silviculture prescriptions.

FINDING 4:

A professional geoscientist carried out a terrain stability field assessment for the proposed cutblocks and prepared a report consistent with the requirements of the *Operational Planning Regulation*. The assessment recommended that one cutblock be removed from consideration and boundaries of three other cutblocks be adjusted to ensure that operations did not take place in high landslide hazard areas. The district accepted the recommendations and made the changes before approving the cutblocks.

After one of their members took part in the helicopter tour of Durieu Ridge in August 1997, the Fraser Valley Regional District took a greater interest in the proposed operations. In January 1998, they hired a geotechnical-engineering firm to review the technical information related to the cutblocks, including the May 1997 terrain stability field assessment prepared by the professional geoscientist. This took place after the district removed one cutblock from consideration and changed cutblock boundaries.

The geotechnical-engineering firm concluded that they had no reason to express geotechnical concern for the stability of the proposed cutblocks.

C. Was clearcutting allowed?

The complainant was concerned that the district manager had approved clearcut logging despite the fact that terrain stability reports indicated that the area is unstable. Clearcutting is proposed within all seven cutblocks; however, parts of two of the cutblocks will be commercially thinned, rather than clearcut.

Section 248(2) of the Code prohibits a licensee from clearcutting an area that has a high likelihood of landslides, subject to conditions. The district manager can waive this prohibition if he or she determines that clearcutting will adequately manage and conserve the forest resources of the area. In 1997, section 24(1) of the *Operational Planning Regulation* also prohibited a person from specifying the silvicultural system as 'clearcut' if the area is subject to a high likelihood of landslides.

As described above, the May 16 terrain stability field assessment identified some stability concerns, and as a result, one high-hazard cutblock was removed from consideration, and boundaries of three other cutblocks were modified. As a result of the modifications, the areas proposed for logging did not have a high likelihood of landslides. These approved cutblocks are located on benched areas and are rated as having a low slide initiation potential, although steeper slopes do occur along cutblock boundaries, indicating a moderate slide initiation potential.

FINDING 5:

Clearcutting the approved cutblocks is permitted by the *Forest Practices Code of British Columbia Act* because they are not located on terrain having a high likelihood of landslides.

Conclusions

The Chilliwack Forest District SBFEP forest development plan was advertised in accordance with Code requirements in place in 1997. However, the newspaper advertisements were not effective in alerting the public that development was planned near Durieu Ridge. By relying solely on the two ineffective ads, the district manager did not comply with Code requirements to provide the public living near Durieu Ridge with an adequate opportunity to review and comment on the plans during the public review and comment period.

Such ineffective notification contributes to the apparent dissatisfaction with the public's opportunity to provide comments on forest development plans that is felt in all sectors across the province.

A professional geoscientist prepared a terrain stability field assessment for the proposed cutblocks and prepared a report, consistent with the requirements of the *Operational Planning Regulation*. The assessment recommended that one cutblock be removed from the logging plan and boundaries of three other cutblocks be adjusted to ensure that operations did not take place in high landslide hazard areas. The district accepted and implemented these recommendations.

The terrain stability assessment was reviewed independently by another professional geoscientist and a professional engineer, and no concerns were identified.

The Code permits clearcutting the cutblocks included in the timber sale because the cutblocks are not located on terrain having a high likelihood of landslides.

Recommendations

The Board believes that it is essential that forest districts and licensees provide a meaningful opportunity for the public to review and comment on forest development plans. Providing an adequate opportunity, as required by the Code, depends on effectively informing the interested and affected public that logging and road construction is planned and that a plan is available for review.

The Board appreciates the challenges that district managers and licensees face when informing the public of their opportunity to review and comment on plans. In the Chilliwack Forest District, for example, over two million people live, work, and recreate near, or in, the forest. However, an advertisement such as the public notice for the Chilliwack SBFEP forest development plan attracts little public attention, and does not provide adequate information about the opportunity to review and comment on a plan.

In accordance with section 185 of the Act, the Board recommends that the Chilliwack Forest District, in advertising the next opportunity for the public to review the SBFEP forest development plans:

1. Use more effective ads to notify the public about opportunities to review and comment on forest development plans. For example, the district should consider ads that are larger, are featured in more prominent sections of local papers and describe the location of planned activities in locally recognized terms so that interested members of the public can determine if they wish to provide comments.

2. Use additional means of informing the public about the opportunity to review and comment. For example, other ways of informing the public might include mailing notices to interested and affected groups and individuals and posting notices in public locations. Contacting local media and arranging tours, such as the district manager did in this case, could also be useful if undertaken before or during the opportunity for public review.

In accordance with section 186 of the Act, the Board requests that the district manager notify the Board of the steps taken to address these recommendations and to improve the public notification of the opportunity to review and comment on plans.